



## Lamoine Board of Selectmen

606 Douglas Hwy  
Lamoine, ME 04605  
(207) 667-2242  
town@lamoine-me.gov

### Minutes of November 13, 2014

Chairman Gary McFarland called the meeting to order at 7:00 PM

Present were: Selectmen Bernie Johnson, Heather Fowler, Nathan Mason, Gary McFarland, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Town Attorney Anthony Beardsley, Lynn Tscheiller, Jay Barnes, Planning Board Chair John Holt, Griff & Sandra Fenton, Code Enforcement Officer Michael Jordan, Denis Bouffard, Monica Moeller, Ed Bearor, Barry Balach, Paula McIntyre, Ed and Lily Miller, Assessor Jane Fowler, Warren Mead, Carol Korty and Town Attorney Daniel Pileggi (arrived 7:50 PM)

**Minutes – October 23, 2014** – Nathan moved to approve the minutes as written. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Minutes – November 6, 2014** – Nathan noted one correction and submitted the correction in writing. Heather moved to approve the minutes as corrected. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Expenditure Warrant 9** – The warrant was signed at the special meeting the previous week. There were no questions regarding the warrant.

**Expenditure Warrant 10** – Selectmen signed the warrant in the amount of \$24,816.41. Stu noted the snow plowing contract payment was included at \$15,300.

**Cash & Budget Reports** – Stu noted the audit figures have been entered and the report prepared for this evening is up to date.

**Checking Account Reconciliation** – Selectmen signed the statement expressing satisfaction with the review of the checking account reconciliation that was e-mailed to them prior to the meeting.

**Foreclosure Notices** – Stu reported the list of the unpaid property taxes from 2012/13 was included in the Selectmen's packet. He said official notices would be sent out by certified mail in a couple of weeks.

**Hearing – Dangerous Building 91 Marlboro Beach Rd.** – Gary asked Jay Barnes if he had received the hearing notice. Mr. Barnes said that he received it less than 2-weeks ago. He said his lawyer would like to have this continued because there was not adequate notice time and due process was not served. He said that material he received this evening from the town would have been helpful to have. Town Attorney Anthony Beardsley said if Mr. Barnes is just receiving material now, a continuance would not be unheard of. Heather asked when the next meeting was scheduled. Stu said it's December 11, 2014 at 7:00 PM. Mr. Barnes said that would give him sufficient time. Jo moved to continue the hearing until December 11, 2014 at 7:00 PM. Heather 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Code Enforcement Officer Report – Asa's Lane (multiple complaints)** – Gary asked if the CEO had been to the property to investigate the complaints regarding a junkyard and occupied travel trailers. Michael Jordan replied that he had. Stu said that notices of violation were mailed out this afternoon. Jo asked if the Selectmen are taking any action. Stu said this is just for the Selectmen's information. He explained there were three notices of violation – one for the alleged junkyard, one for a travel trailer on one property and one for a travel trailer on a separately owned property. Nathan asked how long the Code Enforcement Officer has given the alleged violators to correct the problem. Stu said the notices give them 30-days to fix the violations.

**Appeals Board – Recreational Vehicle Ruling** – Stu reported that the Board of Appeals ruled in the Benincasa v. Code Enforcement Officer/Planning Board case in regard to the length of time a Recreational Vehicle could be occupied without obtaining a building permit. He said the ruling is that 30-days or more of occupation per year requires a building permit. He said the Appeals Board also rules that the Planning Board did not err in granting a waiver for a road opening permit.

Jo said she has heard a lot of concern about this and a possible ordinance change.

**Proposed change to Building & Land Use Ordinance** – Planning Board Chairman John Holt said he sent a couple of e-mails in regard to the request to call a public hearing on a propose amendment to the Building and Land Use Ordinance in regard to the length of time an RV can be occupied without a permit required. He said a review of the Selectmen minutes contained no actual vote to place the proposed article before the voters. He said he is approaching this with an abundance of caution and is reluctant to call a hearing unless the Selectmen specifically vote to place this before the town meeting. He said he is asking the Selectmen to clarify, and that he is not comfortable calling for a public hearing at this point.

Bernie said the Selectmen have not gotten there yet. Jo said the Selectmen discussed the matter and understood what the Code Enforcement Officer (CEO) was proposing. She said she has no opinion on the request, but is concerned about unintended consequences. Heather said she recalled asking to look into the matter further

CEO Michael Jordan said the Planning Board needs to know whether the proposed amendment would be dealt with at an open town meeting or by referendum. Bernie said the issue is interesting and he could see how different the impact could be. He said he's anxious to have a discussion about the matter.

Gary said the Shoreland Zoning provision concerning RV's is different than the Building and Land Use Ordinance. CEO Jordan said the Shoreland Zoning Ordinance is very clear that an RV can be occupied for up to 120-days without requiring a permit. He said the more stringent ordinance would override the other. He said the Appeals Board ruling will render some property useless. He said the purpose of the permitting requirement was to cover those RVs that are here a few months of the year, not for year round occupation. A discussion followed on the proposed language change to 30-consecutive days.

Bernie said he has seen some RVs that are around more than 30-days. He asked how the town goes about determining how long an RV is occupied. He said it could prove to be a challenge. Lynn Tscheiller asked what the problem was and whether someone complained. Bernie said it sounded like the plan in the recent Appeals Board case was to bring an RV onto a lot with an existing home and to rent out the house. He said it changed the complexion of the neighborhood. Carol Korty asked if that meant there would be two dwelling units on a lot. Bernie said that was correct.

Heather asked what the fine would be. CEO Jordan said the process starts with a notice of violation. He said the Selectmen determine what any fine would be.

Gary asked if he was correct that if someone is occupying an RV for more than 30-days, they must obtain a construction permit. CEO Jordan said they need the building permit plus plumbing and water. He said the problem is that some lots are not buildable. He said this case pushed the line further and was skirting with the ordinance.

Nathan said the violation appears to be hooking up to the septic system. He said the curb cut and gravel pad were legal. He asked if the issue was the utility hookup. CEO Jordan said the RV was simply sitting beside the house. Nathan said it's possible that the occupants could live there 29-days, go off to a motel for a night, and come back and occupy the RV for 29-more days. He said he'd read all the letters e-mailed to the Board of Appeals. CEO Jordan said the RV in the Appeals Board case was hooked to the septic system when he first inspected it, but he had it removed.

Heather asked if the Board should consider offering a change to the ordinance for a special circumstance. CEO Jordan said the ruling from the Board of Appeals changes how he looks at the ordinance. Nathan said other communities have a "consecutive days" provision. He said he's not sure if the town wants to eliminate the ability to do that. He asked if the town would have to serve non-compliance orders. CEO Jordan answered yes.

Monica Moeller said the Selectmen are missing the basic point. She said if this is a 40,000 square foot lot, it is allowed by permit. She said this case was not OK because the RV is jammed up against a house. Nathan said the issue is how long someone can live in an RV without a permit. A brief discussion followed regarding the Lorimer Road neighborhood.

Attorney Ed Bearor said he represented the Appellants before the Board of Appeals. He said the problem is that the amendment going to the Planning Board was ill defined. He asked what the Selectmen want the amendment to be. He said there is a neighborhood concern, because the previous ruling by the CEO would allow two dwellings on a lot for 352 days per year. He said density is an issue and this becomes a transient accommodation. He said he would like the Selectmen to do nothing with this matter, as the Board of Appeals has established that the language means 30-days per year. He said he's not sure if the Selectmen need to do anything more. He said before this matter

goes back to the Planning Board, it needs to be defined. A brief discussion followed on the options for a 1-acre lot.

Appeals Board Chair Griff Fenton said most of the lots mentioned are substandard lots. He said if there is a 40,000 square foot lot, an RV would be able to get a permit. He said the lot in the Appeals Board case had two RV's on it for a few days. He said there are unintended consequences and there would be no limit on how many RVs there could be on a lot. He said he believed the Appeals Board made the correct ruling. He said there should be a study with different areas in town reviewed and recommendations for different areas of the town. A brief discussion followed.

Barry Balach (the co-owner of the lot and RV in the Appeals Board case) said it was stated that the house was rented and there were two RVs on it. He said there was no one living in the RVs. He said there has been a lot of false information.

Planning Board Chair Holt asked when an RV ceases being an RV and becomes a dwelling unit. He said the dwelling unit makes it subject to permits. He said the Board of Appeals has now ruled that it's after 30-days of occupation in a calendar year. He said 30-consecutive days is another way to look at it, or the town could consider another standard. He asked if there could be other exceptions made.

Ed Miller said before the Selectmen ask to bring this to a town vote, the subject should be fully examined from all angles. He reviewed his written submission to the Board of Appeals, and offered an analogy to the junkyard ordinance. He said it's not enough for one person to say that this isn't working for them, therefore a change should be sent to the town.

Gary said ordinances are always evolving. He said there are more questions than answers at this point, and the Selectmen need to do more work on this before taking action. He said there are land size, timing, and septic issues. Bernie said there might be 50-toher places with campers on them without complaints. He said the Board has work to do. Mr. Fenton said most of the other place have a permit. CEO Jordan said the only ones with permits are the RVs that are on site all the time. He said the town has been living with the 30-consecutive day ordinance interpretation since at least 1992. He said he asked about this issue back then. He said this change is not proposed because of one incident.

Jane Fowler said the Board of Assessors knows where most of the campers are, and they come and go. A brief discussion followed.

Gary said the Selectmen are not going to make a move tonight. He said this should be discussed with the Planning Board and Code Enforcement Officer to get a clearer picture on where to move with this. Jo said she didn't think this was up to the Selectmen. She said if someone wants to work on it and bring it back to the Selectmen that would be OK. Bernie said the Selectmen need a better understanding of how changes would affect situations. Nathan said there are unintended consequences to changes. Heather said the CEO has asked for a change, and the Board should look into

it. Mr. Holt said the Planning Board hears that there is an issue and would likely be willing to talk about it. Gary said if the Planning Board could work on the issue and get back to the Selectmen it might be helpful. Nate said that would be a place to start.

**Animal Control Officer Contract** – Jo moved to sign the contract with Shannon Byers. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Election Day Matters** – Gary noted the Board received a letter from Frederick Cahn regarding an incident on Election Day. Stu reported that he received a call from Mr. Cahn shortly after the incident and he addressed it with the petition signature gatherer. He said the Secretary of State's office also called the town office regarding the incident to see if the town had addressed the situation. He said there was one similar incident later in the day and that too was dealt with, and things went smoothly after it was addressed with the petitioners.

**Municipal Review Committee Director** – Nathan moved to cast the town's vote for Derik Goodine of Bucksport. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Recreation Committee** – Stu said he contacted the Town of Hancock and the City of Ellsworth for their language establishing a Recreation Committee. He said Hancock's is by policy, Ellsworth is by ordinance. Gary said there was a lot of sentiment at last week's meeting to get this up and running. There was a brief discussion about the advantages and disadvantages of both options.

Nate moved to advertise for positions on a Recreation Committee and to move the committee forward as an extension of the Board of Selectmen. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Audit** – Heather moved to sign the management representation letter to James Wadman, CPA. Gary 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Hancock County Planning Commission Support Letter** – Jo moved to sign a letter supporting the Planning Commission's application for a USDA grant. Gary 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Returnables Request** – Jo moved to award the proceeds of returnables gathered at the Lamoine Transfer Station in March 2015 to the Conservation Commission. Heather 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Recycling Update** – Stu said he received a call from Coastal Recycling earlier in the day that they will no longer be taking glass. He said there is a concern that Coastal's existence may be limited as one of their larger towns is contemplating withdrawing. He said there are other recycling options, including the zero-sort option from Casella and the Ellsworth Transfer Station.

Selectmen received a concern from transfer station manager Chris Meyer earlier in the day regarding hazardous materials left in the dumpsters. Mr. Meyer had suggested a

personal reward for information leading the prosecution of the person who dumped the improper items. Selectmen discussed the situation and appreciated the attentiveness of Mr. Meyer but the reward offer is not appropriate. Nathan said a better monitoring system may be needed. Stu noted Mr. Meyer is attending the DEP class next Thursday and suggested that he ask at the class for suggestions.

**Next Meetings** – Stu said he would like to have the Selectmen sign a warrant next week so the school teachers among others could be paid. He said he would let the board know when it's ready for signatures.

The next regular meetings will be December 11, 2014, January 8, 2015 and January 22, 2015.

**Executive Session** – Gary moved to enter executive session pursuant to 1MRSA §405(6)(a) to discuss litigation with the town attorney. Jo 2<sup>nd</sup>. **Vote in favor was 5-0.**  
**In at 8:22 PM, out at 8:55 PM.**

There being no further business, the meeting adjourned at 8:55 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen